

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

PAUL CHARLEY	§	
v.	§	CIVIL ACTION NO. 6:12cv494
JASON BROWN	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

The Plaintiff Paul Charley, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The sole named Defendant in the case is Sgt. Jason Brown.

Charley complains that Brown used excessive force on him on April 5, 2012, and that this was done in retaliation for Charley having filed a grievance on him. Sgt. Brown filed a motion for summary judgment, to which Charley filed a response.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the motion for summary judgment be granted as to the retaliation claim and any claims for monetary damages brought against Brown in his official capacity. The Magistrate Judge further recommended that the motion for summary judgment be denied in all other respects.

Copies of the Magistrate Judge’s Report were sent to the parties, return receipt requested, but no objections have been filed; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and

adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and evidence in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly


ORDERED that the Report of the Magistrate Judge (docket no. 31) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendant's motion for summary judgment (docket no. 20) is hereby **GRANTED** with regard to the Plaintiff's retaliation claim and any claims for damages brought against the Defendant in his official capacity. It is further

ORDERED that the Defendant's motion for summary judgment is in all other respects **DENIED**.

It is SO ORDERED.

SIGNED this 10th day of January, 2014.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE